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SIPDIS

DEPARTMENT FOR WHA, INL, AND L

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SUBJECT: INTERAGENCY DELEGATION DISCUSSES

INFORMATION-SHARING REGARDING BRAZIL'S SHOOTDOWN PROGRAM
(CORRECTED COPY)

Classified By: Pol Consul Dennis W. Hearne for Reasons 1.5a

1. (C) Summary and Introduction. On July 30, a State/DoD delegation, led by WHA PDAS James Derham, met with Brazilian Ministry of Defense interlocutors to discuss mechanisms through which the GOB would provide information to the USG about the status of Brazil's shootdown program once that program begins. The two sides generated a working text that would provide the USG timely access to GOB data (i.e., reports and video/audio tape) in cases where Brazilian interceptors employed lethal force. In addition, the GOB committed to providing the USG with: a) notification of any substantial changes to program procedures and training requirements, and b) the opportunity for periodic consultations that might address the number of events that stop short of lethal force and the date and location of such events.

2. (C) Both sides agreed to take the working text back to their respective interagency processes for a more complete review. The GOB will produce, in Portuguese, the official version of the working text, by the middle of the week of August 2. State will generate an English version of that document shortly thereafter. The USG delegation proposed that, when finalized, the document and two annexes that detailed the GOB's procedures, would serve as attachments to an exchange of diplomatic notes, that would be initiated by the GOB. In its current form, the exchange would represent a political commitment on the part of the GOB, as opposed to a binding international agreement. End Summary and Introduction.

3. (C) Fernando Abreu, Chief of Staff of Defense Minister Viegas, led the Brazilian delegation, which consisted of Orlando Almeida (Special Advisor to Viegas), Air Force Brigadier General Machado (Sub-Chief of Operations of the MOD Joint Staff), and Air Force Colonel Servan (Vice-Chief of the GOB Air Defense Command). After welcoming remarks, Abreu noted that the GOB planned to initiate its shootdown program on October 17, with great emphasis being placed on transparency for both the Brazilian public and foreign governments. He then turned the floor over to General Machado, who launched into an extended description of Brazil's air defense infrastructure and the procedural safeguards associated with the GOB's implementation of shootdown. In particular, Machado noted that:
-- Since 1979, the GOB had been safely conducting air interceptions (i.e., approaches short of lethal force), and was well aware of the need to scrupulously observe ICAO requirements during the course of aerial interception. The use of lethal force, he emphasized, was merely an extension of the GOB's current interception efforts.
-- Brazil's operational norms for its airspace defense system were contained in a large classified document known as the NOSDA (the Portuguese acronym). Though the Air Force was not able to provide the USG with a copy of the NOSDA, he emphasized that the documents that were passed to the delegation representatives during the course of the July 29 talks, in addition to the GOB's two sets of responses to the USG's questions about GOB shootdown procedures, were accurate summaries of the contents of the NOSDA. (In brief, these summaries describe a process of detection, monitoring, identification, interrogation, investigation, and warnings prior to the use of lethal force, as well as the procedures and circumstances under which the GOB would use lethal force).
-- The use of both warning shots and lethal force would only be authorized by the Commander of Brazil's central air defense center. Lethal force would only be employed in cases where intel information indicated that the suspect air track was tied to narco-trafficking.
-- The co-location of civil aviation facilities with military controllers, along with reliance on a common Air Force radar feed, facilitates the identification of routine civil aviation traffic.
-- The GOB plans to conduct an extensive media campaign, using television and radio spots, sporting events, and notices to airmen (NOTAMS) to publicize the contemplated October 17 initiation of its shootdown program. A parallel effort would be aimed at the international public as well.

-- The training regime for program personnel includes training for pilots, air controllers, and communications personnel. In particular, he noted, those pilots who conduct air interceptions receive more extensive and specialized training than their non-interception counterparts.

14. (C) Subsequent discussion then refined the mechanism through which the USG would receive information about program events. Abreu noted that the GOB was open to passing comprehensive information to the USG on an informal basis, but that any arrangement that smacked of USG intrusion into Brazilian sovereignty was a non-starter, given the potentially negative reaction by the Brazil congress and public. Still, Abreu pledged that the GOB would:
-- provide, on an urgent basis, the AmEmbassy Brasilia Air Force Attache with information regarding any shootdown incident. Such information would be provided to the general public as well.
-- At the USG's request, meet with USG representatives to provide background information about the program's progress (i.e., the number of suspect tracks detected, interceptions, and warning shots as well as other similar data), and
-- notify the USG of any changes in security procedures, non-classified checklists, flight plan requirements, and training regimen.

15. (C) Begin Comment. As a result of these discussions, it is clear that -- other than for information on shootdown events -- the USG will have to initiate contacts with the GOB when securing information on the shootdown program. It may be worthwhile for USG agencies to: a) establish a checklist of information that they would like the AmEmbassy Brasilia Air Force Attache to obtain, b) and provide guidance on the frequency with which the Attache should seek consultations with the GOB. End Comment.

16. (C) PDAS Derham proposed that the two sides ultimately document the understanding reached regarding information sharing through an exchange of diplomatic notes. The diplomatic notes would expressly reference three attachments: the GOP responses to the first and second set of questions from the USG regarding GOB operational procedures and the working text that was the subject of this round of discussions. The diplomatic note would also reflect the GOB's assurances that the shootdown program would only be directed at aircraft reasonably suspected to be primarily engaged in illicit drug trafficking. The GOB clarified that this meant that aircraft carrying drugs or aircraft carrying money, weapons, or precursor chemicals to exchange for drugs could be subject to lethal force. (The scope of the GOB's program thus falls within the scope of the 22 U.S.C. 2291-4, i.e., the immunity statute, as further articulated by DOJ in the context of the Colombia ABD program.)

17. (C) Abreu was open to the idea of an exchange of diplomatic notes, though he indicated that he would need to check with others (in particular, Minister of Defense Viegas) prior to providing us with the GOB's formal answer. Both sides then explored possible language for inclusion in the exchange of diplomatic notes (which would be initiated by the GOB). For Abreu, a red-line was any language which indicated that the exchange of diplomatic notes would be a binding international agreement, as that would mean that the text would need to be approved by the Brazilian congress.

WHA PDAS Derham cleared message.

DANILOVICH